IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 18441 of 2000

Between:

C. Eranna S/o. P.Veeraiah
R/o. Adoni, Kurnool District.

..... PETITIONER

AND

1. Syndicate Bank Rep. by its Chairman & Managing Director
Personnel Department, Head Office at Manipal Karnataka

State.
2. Syndicate Bank Rep. by its Dy. Chief Manager,
Personnel Department, Personnel Administration Division (O)

Head Office at Manipal, Karnataka State.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ or order or direction, more particularly one in the nature of Writ of Mandamus, directing the respondents to reinstate the petitioner back into service by giving continuity of service, release of back wages and other consequential benefits due to him from 13.11.1999 till date.

Counsel for the Petitioner: MR.K.G.KRISHNA MURTHY

Counsel for the Respondents: MR.A.KRISHNAM RAJU

The Court made the following:

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

W.P.NO.18441 OF 2000

ORDER:

Heard both sides.

The petitioner herein, who has been the employee of the respondent bank, filed this Writ Petition, *inter alia,* seeking a writ of Mandamus, to direct the respondents to reinstate him into service with continuity of service and release back-wages and other consequential benefits due, from 13.11.1999 till date.

2. The facts, in brief, as stated by the petitioner are to the effect that the petitioner was initially joined the service of the respondent bank at Adoni on 10.05.1979 as a Clerk, later on he was promoted as Officer and posted accordingly at Bellari from 1981 to 1984 and he also served at Regional Office, Bhopal, Madhya Pradesh as Deputy Chief Officer. He stated that he completed 23 years and six months of service in different branches successfully. However, while serving in the branch at Ahmedabad during 1995 to 1997, he sought transfer to Adoni, being his home town, since his family was residing there and on account of urgent medical problem of his son, who was to undergo plastic surgery of thumb and his wife was a chronic asthamatic and was to be operated in July 1998 for Hysterectomy. Therefore, the

said request was accepted. The petitioner states that he has four children, three daughters and one son and the said daughters are at marriageable age. This and other domestic problems and disturbances have increased. As a result of which, he forced to sent a communication to the respondent bank on 20.09.1999 to get a voluntary retirement. The date of making the application for voluntary retirement should be treated as the date of commencement of notice period of 90 days. However, it was reiterated that the said communication or decision to seek voluntary retirement was exclusively due to the personal problems and reasons. Further without waiting for 90 days period the respondent immediately sent a fax message that the competent authority has accepted the notice of voluntary retirement and permitted to relieve from service on 13.11.1999. Accordingly, he was relieved. The complaint on the part of the petitioner is mainly on the ground that the respondent without waiting the mandatory period of 90 days straight away accepted the petitioner's request and therefore, the same is wholly contrary to the very scheme and the conditions as contemplated therein. Further it is also pointed out that it is only due to compelling reasons i.e. domestic problems, the petitioner was forced to sent such communication and therefore, it could not deny the legitimate rights, which he is entitled to under law. Further it is submitted that immediately the petitioner made an application on 6.12.1999 pointing out all these and other reasons with a request to take him back into service. However, the same was rejected as per the proceedings, dated 08.12.1999, stating that the same cannot be considered. The petitioner had sent one more representation on 24.01.2000 to the Chief Manager/Managing Director against the earlier proceedings and also appeal to the Chairman on 05.06.2000. The same was ultimately rejected by the proceedings

dated 05.07.2000 reiterating the earlier version. Hence, this Writ petition.

3. In the counter affidavit filed on behalf of the respondents every detail has been given as to how and where the petitioner has been posted since the inception of service and further pointing out that all his further posting was given only at his request and convenience, and therefore, the bank has been very generous in regard to the petitioner herein. It was further contended that on his own accord, the petitioner submitted the said application for VRS on 20th September, 1999. That apart, this was followed by another application dated 01.10.1999 to the respondent bank requesting them to accept VRS immediately by November 1999 waiving 90 days notice to him. The petitioner has once again reiterated the same by another letter dated 12.10.1999, requesting the bank to relieve him on 13.11.1999. Following the same the respondents have acceded and ultimately his request was accepted and he was relieved on 13.11.1999 as desired by him even before completion of three months. Having waived the 90 days period of notice the petitioner insisted for acceptance of his resignation, it is not open for the petitioner to fall back for the said requirement of three months. The petitioner has not come out with all these facts, and therefore, he is not entitled to any relief. The petitioner was also duly served with a relieving order bearing No.1362 ROB 7701 99, dated 13.11.1999 and the respondent bank has already released the terminal benefits due to the petitioner. In view of the above reasons, there are no merits in the writ petition and the same is liable to be dismissed.

4. The petitioner has filed a further pleading by way of reply affidavit giving complete

details and denial in regard to the various postings given during the period of service. However, all these allegations are no bearing on question, hence, it need not be traversed at this juncture. In the last portion of the reply affidavit he admitted that he has to attend his daughter's marriage proposal on 15.11.1999 and he has asked the bank to relieve him on 13.11.1999.

5. Having considered the submissions made on either side and also on a perusal of the documents, the question which arises for consideration in the Writ petition is as to whether in the facts and circumstances, acceptance of the resignation of the petitioner under VRS scheme is sustainable.

6. There is no dispute to the fact that the petitioner has worked as employee of the respondents. Though there was a complaint that the petitioner's request for proper postings was not considered, however, the respondents pointed out that every posting has been given to him at his request and convenience and therefore, there has been substantial traversity on the part of the respondent bank in regard to the petitioner. The main ground of the petitioner is only on the aspect that the communication which he has sent on 20th September, 1999 was only due to certain reasons which are beyond his control and as a result of the disturbed mind and due to the severe domestic problems i.e. his son was to be operated and wife was also not well, therefore, he was compelled to give his resignation. Above all there is no specific denial or any rebuttal in regard to the averments made by the respondents herein that the petitioner himself has reiterated his resignation even subsequent to the filing of the application on 20th September, 1999 by submitting two letters, one on 1.10.199 and another on12.10.1999 and insisting upon the immediate

acceptance of his resignation and also waiving 90 days period of notice. It is, therefore, pointed out that acting on such letters filed by the petitioner subsequently and due to the urgency as sought to be shown, the respondent bank has immediately accepted the petitioner's resignation and relieved him from service on 13.11.1999. There is absolutely no explanation forthcoming as to why and how the petitioner can fall back on his own applications filed subsequently on 1.10.1999 and 12.10.1999. It is also due to the marriage of his daughter, he sought to be relieved. In the circumstances, it cannot be said that all the three letters commencing from 20th September, 1999, followed by other letters are out of any anxiety or disturbed mind as such. It is only after the acceptance of the resignation and relieving him on 13.11.1999, the petitioner sought to file a fresh application on 6.12.1999 requesting the respondents to take him back into the service, which is wholly unsustainable in view of the fact that the resignation was not only accepted, but also acted upon and that too it is unconstitutional. The complaint of the petitioner is totally lacks any bona fides. In the circumstances I do not find any justification to the petitioner's claim of complaint and there are no merits in the writ petition.

7. Accordingly, the Writ petition is dismissed. No costs.

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11.07.2005

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To

1. The Chairman & Managing Director
   Personnel Department,Syndicate Bank ,Head Office at Manipal

Karnataka State.

2. The Dy. Chief Manager,Syndicate Bank
   Personnel Department, Personnel Administration Division (O)

Head Office at Manipal, Karnataka State.

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